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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,049	06/04/2002	Gunter Ritter	6235-16=DCL	6718
23552	7590	10/05/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			WARE, DEBORAH K	
			ART UNIT	PAPER NUMBER

1651

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/088,049

Applicant(s)

RITTER

Examiner

Deborah K. Ware

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/4/02
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-18 are presented for examination on the merits.

#### ***Papers***

The change of power of attorney filed June 19, 2003, has been received and entered.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Information Disclosure Statement***

The information disclosure statements (IDS)s submitted on December 15, 2003 and May 30, 2003 were received. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-16 are rendered vague and indefinite for the recitation of "characterized in that one adds" since it is unclear what is intended and it is suggested to simply recite --comprising adding to the maintenance system--.

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Also the term "desired" as used in the claims is subjective and not suggested for use in the claims. Furthermore, the terminology "possibly in admixture" and "and/or especially" and "preferably" or "especially" as well as the use of examples, ".e.g.", are not suggested because they render the claims unclear as to what limitation are being set forth in the claims. Also the use of terms in "( )" is not suggested since again it is unclear what is intended, note "(singly or in combination)" in line 4 of claim 17. In addition, "casual use" renders the claim indefinite. Claim 18 is rendered vague and indefinite for usage of similar language as described above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by CENTRUM, as cited on enclosed PTO-1449 Form.

Claim 17 is drawn to a component product.

CENTRUM as cited on enclosed PTO-1449 Form discloses a product characterized in that it comprises iron fumarate, lactose, earth metal salt, magnesium stearate and vitamins B1, B2, B6 and B12, and folic acid. See the entire document.

The claim is identical to the cited disclosure of CENTRUM and is therefore, considered to be anticipated by the teachings of the reference.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-5, 8-9, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by JP-61-96959 as cited on enclosed copy of PTO-1449 Form.

Claims are drawn to process and component product for improvement of water quality.

JP-61-96959 teaches a composition comprising iron citrate, citric acid, metal salt, calcium phosphite and thiamine, and folic acid, the composition is useful for improving water quality for solutions used in fish breeding. Note the abstract.

The claims are identical to the cited disclosure and are therefore, considered to be anticipated by the teachings therein.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 6, 7, 10-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 296 17 181 in view of DE 197 04 953 and DE 195 33 994, all cited on enclosed PTO-1449 Form.

Claims are drawn to process according to claim 1 and further including specific combination of additional and varied substances.

DE 296 17 181 teaches addition of magnesium salts, and effects thereof, for which to increase hardness, etc. Also adjustment of the Ca:Mg balance and pH stability are disclosed, note page 11, all lines.

DE 197 04 953 also describe Also adjustment of the Ca:Mg balance and pH stability are disclosed, note column 1, lines 64-68 and column 5, lines 26-34.

Both of these above cited references disclose the same advantages with respect to the magnesium salt of an organic carboxylic acid.

DE 195 33 994 teaches selection of specific substances, citrate, etc, for which one may add thereto.

The claims differ from '181 in that the Ca-Mg balance and pH stability as well as other specific combination of substances are not disclosed.

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It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the cited prior art to provide for the process of improving water quality. The art clearly recognizes combination of substances to combat water quality issues. To modify the cited references is clearly obvious because the ingredients as claimed herein as also disclosed by the cited prior art. One of skill would have been motivated to select for these combinations of ingredients. In the absence of persuasive evidence to the contrary the claims are rendered prima facie obvious.

All claims fail to be patentably distinguishable over the state of the art discussed above and cited on the enclosed PTO-892 and/or PTO-1449. Therefore, the claims are properly rejected.

The remaining references listed on the enclosed PTO-892 and/or PTO-1449 are cited to further show the state of the art.


No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**DEBORAH K. WARE**  
**PATENT EXAMINER**  
Deborah K. Ware  
September 20, 2004